

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK REESE, FRANCES ELAINE
PIDDE, JAMES CICHANOFSKY,
ROGER MILLER, and GEORGE
NOWLIN,

Plaintiffs,

v.

CNH GLOBAL N.V. and CNH
AMERICA LLC,

Defendants.

Case 2:04-cv-70592-PJD-PJK

Hon. Patrick J. Duggan, U.S.D.J.

Hon. Paul J. Komives, U.S. Mag. J.

**CNH'S MOTION FOR
EXPEDITED CONSIDERATION OF ITS OBJECTIONS TO
THE MAGISTRATE'S ORDER EXTENDING THE SCHEDULE**

CNH requests expedited consideration by the Court of its objections to the Magistrate's order extending the schedule an additional sixty days. In the absence of expedited consideration, Plaintiffs will receive a substantial (and unwarranted) extension of the schedule, even if CNH's objections are sustained. Accordingly, CNH urges the Court to resolve CNH's objections promptly after receiving Plaintiffs' response to them (which should be required on or before February 6) and CNH's reply (which should be required on or before February 7).

CNH's motion to expedite would be rendered moot if it was not given expedited consideration. Accordingly, CNH also requests that the Court require any

response to the motion be filed on or before February 3 and any reply in support of the motion to be filed on or before February 4. CNH has submitted a proposed order regarding the shortening of the briefing schedule using the Court's CM/ECF system.

Pursuant to Eastern District of Michigan Rule of Civil Procedure 7.1(a), CNH requested Plaintiffs' concurrence in the above relief on January 30, 2014. Plaintiffs reported on January 31 that they did not concur.

Dated: January 31, 2014

Respectfully submitted,

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Hon. Patrick J. Duggan, U.S.D.J.

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**CNH'S BRIEF IN SUPPORT OF ITS MOTION FOR
EXPEDITED CONSIDERATION OF ITS OBJECTIONS TO
THE MAGISTRATE'S ORDER EXTENDING THE SCHEDULE**

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CONCISE STATEMENT OF THE ISSUE PRESENTED

Should CNH's objections to the Magistrate's extension of the schedule be resolved on an expedited basis?

**CONTROLLING OR
MOST APPROPRIATE AUTHORITY FOR THE RELIEF SOUGHT**

The Court's inherent power to expedite matters

When it remanded this case—rather than resolve the matter itself—the Sixth Circuit counseled, “This long-running dispute needs to come to an end, and it is particularly unfair to prolong the dispute when the status quo . . . not only favors just [Plaintiffs] but also risks mooted the economic stakes of the case for [CNH].” *Reese v. CNH Am. LLC*, 694 F.3d 681, 685 (6th Cir. 2012). The Sixth Circuit made that statement in September 2012, over sixteen months ago. Because the Magistrate ignored this guidance when he extended the remand schedule a fourth time (and other reasons), CNH timely objected to the extension. To avoid depriving its objections of value, CNH asks the Court to give them expedited consideration.

When the Court set the initial remand schedule, it ordered discovery to be completed by July 21, 2013, and dispositive motions to be filed by August 15, 2013. Three extensions later, these deadlines were January 17, 2014, and February 3, 2014. (R. 372, Op. & Order 2.) On January 23—after discovery closed—the Magistrate extended the schedule *again*, such that the current discovery deadline is March 14 and the current dispositive-motion deadline is April 14. (R. 399, Order 2.) CNH objected to the order on January 27. (R. 400, CNH’s Objs. Mag. Order i.)

Under the Court’s rules, Plaintiffs’ response to the objections is due on or before February 13. E.D. Mich. R. Civ. P. 72.1(d)(3); Fed. R. Civ. P. 6(d). If Plaintiffs take their entire period, then CNH’s reply will be due on or before

February 24. E.D. Mich. R. Civ. P. 72.1(d)(4); Fed. R. Civ. P. 6(a)(1)(C), (d). Under such a schedule, approximately half of the inappropriate extension sought by Plaintiffs will have elapsed. In other words, even if CNH's objections are sustained, Plaintiffs will have secured a sizable extension of the schedule.

If CNH's objections are to have any curative force in this matter, they must be given expedited treatment. Accordingly, CNH urges the Court to direct Plaintiffs to respond to the objections on or before February 6, and to direct CNH to reply in support of the objections on or before February 7.

Dated: January 31, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2014, I electronically filed the foregoing **CNH'S Motion for Expedited Consideration of Its Objections to the Magistrate's Order Extending the Schedule** with the Clerk of the Court using the ECF system which will send notification of such filing to all ECF participants.

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